

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re:

Case No. 09-41591

MELANIE HICKS, and  
RICHARD HICKS,

Chapter 13

Judge Thomas J. Tucker

Debtors.

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**ORDER DENYING DEBTORS' MOTION TO REINSTATE CASE**

This case is before the Court on Debtors' "Motion to Reinstate Case," filed on March 18, 2009 (Docket # 27), which this Court construes as a motion for reconsideration of the Court's March 13, 2009 Order dismissing this case (Docket # 26).

The Court has reviewed and considered the motion for reconsideration and finds that the motion fails to demonstrate a palpable defect by which the Court and the parties have been misled, and that a different disposition of the case must result from a correction thereof. *See* Local Rule 9024-1(c).

In addition, the Court notes the following: Debtor is not eligible to be a debtor in this case under 11 U.S.C. § 109(h)(1). That section provides in relevant part, that

an individual may not be a debtor under this title unless such individual has, during the 180-day period preceding the date of filing the petition by such individual, received from an approved nonprofit budget and credit counseling agency described in section 111(a) an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted such individual in performing a related budget analysis.

The Court dismissed this case because Debtors' credit counseling certificates stated that they each received a credit counseling briefing more than 180 days before filing their petition in this case. (Order, Docket # 26). On March 18, 2009, Debtors filed corrected "Certificate[s] of

Counseling,” which state that Debtors received “an individual [or group] briefing that complied with the provisions of 11 U.S.C. §§ 109(h) and 111” **on March 16, 2009** (Docket # 28), well after they filed their voluntary petition for relief on January 23, 2009. With exceptions not applicable here, 11 U.S.C. § 109(h)(1) requires a debtor to obtain credit counseling *before* filing a bankruptcy petition, and no longer than 180 days before the petition.<sup>1</sup>

Accordingly,

IT IS ORDERED that Debtor’s “Motion to Reinstate Case” (Docket # 27), is DENIED.

**Signed on March 19, 2009**

/s/ Thomas J. Tucker  
**Thomas J. Tucker**  
**United States Bankruptcy Judge**

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<sup>1</sup> Although Debtor’s previously filed “Certificate[s] of Counseling” at Docket # 6 indicate that Debtors received credit counseling before they filed their petition, Debtors did not receive that credit counseling *during the 180-day period preceding the date of the filing of their petition*. Rather, Debtors received their only pre-petition credit counseling 237 days before their petition was filed. Although the corrected “Certificate[s] of Counseling” at Docket # 28 cannot be used in the dismissed case, Debtors may use them in a newly filed case, as long as that case is filed within 180 days after the Debtors receiving their credit counseling briefing, or in other words, within 180 days after March 16, 2009.